

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	
)	CASE NO: A05-0065 CR (JWS)
Plaintiff,)	
)	
)	
v.)	
)	
EDWARD TED MCDONALD)	
)	
Defendant.)	
_____)	

EDWARD TED MCDONALD'S
SENTENCING MEMORANDUM

Defendant, Edward Ted McDonald, through below signed counsel, hereby files his Sentencing Memorandum.

Mr. McDonald has specifically determined to waive any and all objections that he made to the Draft Presentence Report, except for his position in regard to § 100, which relates to his family's Certificate of Deposits, in which Mr. McDonald contends that such CDs did not belong to him and moreover, that the proceeds thereof had long ago been expended for his Father's health needs. He also excepts from the said waiver, paragraph 168, where he is simply attempting to make the record of his previous residences accurate, stating that the 717 Duck drive, Victoria, Texas was not a correct address for Mr. McDonald. In addition, in such paragraph, he noted

that there was a typographical error in the Des Moines, Iowa for December, 2004. As can be seen in the Report, it states that he was a resident of 8657 Douglas Avenue, Des Moines from October thru November of 2004. Then, the Report says that in December of 2004 he was at 657 Douglas Avenue, Des Moines. Obviously, the initial number of "8" was inadvertently omitted from the address. In addition Mr. McDonald simply states, as a matter of fact, that he never lived at 4920 Mona Lisa, Haltom City, Texas.

Mr. McDonald also objects to paragraph 204 of the Presentence Report, which states,

If reliable information indicates that the defendant's criminal history category substantially under-represents the seriousness of the defendant's criminal history or the likelihood that the defendant will commit other crimes, an upward departure may be warranted.

As this Court knows, the government stated in the Plea Agreement, even though virtually all downward departures were prohibited, that Mr. McDonald could move for downward departure if his Criminal History was a II. This suggests that the case agent and the United States Attorney believe that there would be a basis for a downward departure if his Criminal History were more than I. (Plea Agreement, Section II B, p. 5). The only other permitted departure relates to credit for the State of Alaska jail time spent of over three months in Ketchikan, Alaska. Mr. McDonald agrees to that departure.

Otherwise, Mr. McDonald believes that the Plea Agreement is a fair and just resolution of this matter for the victims, the governments and Mr. McDonald. He believes he should be at Offense Level 21 in Criminal History Category I and asks the Court to sentence him to 37 months, with credit for all federal time plus the aforementioned Ketchikan jail time. He also agrees to the restitution provisions and, of course the Special Assessment.

Mr. McDonald asks this Court to recommend to the U.S. Bureau of Prisons that he be approved for the 500 hour drug and alcohol program and that this Court recommend that he serve at FCI Fort Worth, Fort Worth, Texas, where his wife and children and other family members reside. If for any reason that is not possible, he request a recommendation of FCI Big Spring, Big Spring, Texas.

DATED this 16th day of March, 2006.

LAW OFFICES OF HUGH W. FLEISCHER

By: S/ Hugh W. Fleischer
Hugh W. Fleischer
Attorney for Mr. McDonald
310 K. St., Suite 200
Anchorage, AK 99501
(907) 264-6635
(907) 264-6602-Fax
hfleisch@aol.com

CERTIFICATE OF SERVICE

I CERTIFY that on the 16th day of
March, 2006, a true copy of
the foregoing was faxed to
the following counsel of record:

Karen L. Loeffler
Assistant U.S. Attorney
222 W. 7th Ave., #9, Rm. 253
Anchorage, AK 99513-7567
Fax-907-271-1500

John M. Murtaugh
1101W. 7th Ave
Anchorage, AK 99501
Fax-907-258-6419

Marci D. Lundgren
Senior U.S. Probation Officer
101 12th Ave., Rm. 322
Fairbanks, AK 99701
Fax-907-456-0293

S/ Hugh W. Fleischer

9486/514